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SPEARMAN ENGINEERING, PS

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•MARINE DESIGN/INSPECTION

•STRUCTURAL ENGINEERING

•ENVIRONMENTAL PERMITS

TRANSMITTAL SHEET

DATE: August 29, 2001 JOB #: 01-03

TO: Mr. Don Ugelstad
Ash Grove Cement Inc.
3801 East Marginal Way South
Seattle, Washington 98134

FROM: Jay Spearman

RE: Removal Of Aggregate Spillage at Ash Grove Cement Inc. Seattle, WA

MESSAGE:

Please Find the Enclosed:

1. Cover Letter
2. JARPA
3. Biological Evaluation
4. HPA

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• MARINE
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August 30, 2001

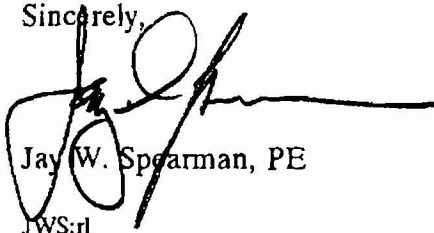
Mr. Don Ugelstad, PE
Ash Grove Cement Company
3801 E Marginal Way, South
Seattle, Washington 98134-1147

Dear Don:

The Biological Evaluation is complete. The Corps application is prepared and ready to submit today. It is anticipated that all applications will be submitted by the end of this week.

We will keep in touch regarding status of permit application processing.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jay W. Spearman', with a long horizontal flourish extending to the right.

Jay W. Spearman, PE

JWS:rl

(wp:RL2001-2eugelstd3.ltr)

AGC2C000440

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August 30, 2001

Mr. Don Ugelstad, PE
Ash Grove Cement Company
3801 E Marginal Way, South
Seattle, Washington 98134-1147

Dear Don:

We appreciated the opportunity to meet with you and other members of Ash Grove's management staff to make them aware of the regulatory environment that waterfront projects now face.

The meeting was intended to address the new permit reality. Hopefully, the news of successful permit strategy was not lost in the discussion of greater permit complications. The new permit reality, as we see it, includes the following:

- Federal agencies obligated to comply with the federal ESA statute, but without sufficient funds to timely implement a practical and effective program. The possibility of citizen initiated compliance actions. The federal regulatory obligation upon state and local jurisdictions to revise their regulatory programs so as not to violate federal regulations implementing the statute.

In a nutshell, this all translates to more agency requirements on property owners and no funding increases to manage and implement programs thereby created.

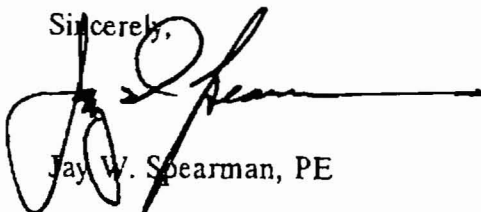
- Federal permit reviews for individual permit action take approximately 3 to 5 years. This may change in the future, but we cannot predict when. Biological Evaluations are required for ESA review. Possible addition to the threatened or endangered species lists in the future. Today 30 more were added. Mostly in Eastern Washington.
- Seemingly smaller and less significant actions adjacent to, or over-water are subject to ESA requirements and the review by the City of Seattle. This includes closer, more extensive, and time consuming permit review.

- A special category of U.S. Army Corps of Engineers (USACE) programmatic permits now allows certain types of action on a routine basis. One programmatic permit authorizes driving of up to 18 non-creosote piles for maintenance purposes. Other programmatic permits exist. As of this date, a programmatic permit does not exist for material recovery.
- Washington Department of Fish & Wildlife (WDFW) shortening of the construction windows when in-water work permitted.
- Washington Department of Ecology (WDOE) reconsidering proposed ESA compliant shoreline regulations, implementing the 1971 Shoreline Management Act. Within the past few days, proposed new regulations were put on hold. Existing shoreline program and regulations remain in force.
- The City of Seattle expanding its project environmental review procedures to cover such concerns as impacts on endangered species and their habitats. Biological Evaluations, Best Management Practices, and extensive SEPA (State Environmental Policy Act) review are now required.
- The USEPA is considering, and likely to designate, portions of the Duwamish Waterway as a Superfund Site. Details regarding boundaries and implementation time lines are currently unavailable. Superfund designation has the potential to significantly impact all permit reviews within the Superfund boundary.

Without forward thinking, it can no longer be assumed that permits will be available routinely on an as necessary basis, even for work necessary for continued operation. The criteria for emergency status is significantly more stringent than the general public is aware.

If this advance planning approach to the new reality that we are experiencing makes sense to your firm, we would appreciate the opportunity to develop a proposal for preparation of a multi-year plan to address these issues.

Sincerely,



Jay W. Spearman, PE

JWS:rl

Agency Use Only

Agency Reference #: _____ Date Received: _____
SEPA Lead Agency: _____
Other: _____

JARPA APPLICATION FORM

— For use in Washington State —

PLEASE TYPE OR PRINT IN BLUE OR BLACK INK

Based on the preceding checklist, I am sending copies of this application to the following: (check all that apply)

- ☒ Local Government; for Shoreline ☐ Substantial Development ☐ Conditional Use ☐ Variance
☒ Exemption; or ☐ Floodplain Management ☐ Critical Areas Ordinance
☐ Washington Department of Fish and Wildlife for HPA
☒ Washington Department of Ecology Approval to Allow Temporary Exceedance of Water Quality Standards
☐ 401 Water Quality Certification Nationwide Permits
☒ Corps Engineers for Section 404 or Section 10 permit(s)

SECTION A - Use for all permits covered by this application. Be sure to also complete Section C (Signature Block) for all permit applications.

1. Applicant Ash Grove Cement Company

Mailing Address 3801 E Marginal Way South, Seattle, WA 98134-1147

Work Phone: (206) 623-5596

Home Phone: () _____

Fax Number: (206) 623-5555

If an agent is acting for the applicant during the permit process, complete #2 and #3.

2. Authorized Agent Spearman Engineering, PS / Jay W. Spearman

Mailing Address PO Box 230

Bremerton, WA 98337

Work Phone: (877) 777-1630

Home Phone: (b) (6)

Fax Number: (360) 377-1636

3. Designation of Authorized Agent, if applicable:

I hereby designate Jay W. Spearman to act as my agent in matters related to this application for permit(s). I understand that if a Federal permit is issued, I must sign the permit.

[Signature]
Signature of Applicant

Plant Manager

8/28/01
Date

4. Relationship of applicant to property: ☒ Owner ☐ Purchaser ☐ Lessee ☐ Other (_____)

5. Name, address, and phone number of property owner(s), if other than applicant

6. Location where proposed activity exists or will occur: Street Address <u>3801 E. Marginal Way</u> <u>Seattle, WA 98134-1147</u> <u>King County</u> City, County, State, Zip Code	Waterbody <u>Duwamish Waterway</u> DNR Stream Type (if known) Tributary of <u>Puget Sound</u> Legal Description: Tax Parcel No.: <u>7666700395 and 76667000350</u> <table border="1"> <tr> <td>$\frac{1}{4}$</td> <td>$\frac{1}{4}$</td> <td><u>18</u></td> <td><u>24N</u></td> <td><u>4E</u></td> </tr> <tr> <td></td> <td></td> <td>Section</td> <td>Township</td> <td>Range</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>	$\frac{1}{4}$	$\frac{1}{4}$	<u>18</u>	<u>24N</u>	<u>4E</u>			Section	Township	Range										
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		Section	Township	Range																	

7. Describe the current use of the property, and structures existing on the property. If any portion of the proposed activity is already completed on this property, indicate month and year of completion.

The property is an existing industrial facility used for the manufacture of cement. The upland area of the site is approx. 23.66 acres and includes approx. 1200 linear feet of waterway frontage. Shoreline is protected by riprap. Existing shoreline improvements includes 60' x 400' wharf, two off-loading conveyors and counterweight towers and access pier with dolphins for barge unloading equipment. Upland facilities include covered and uncovered material handling and storage areas, rail and trucking facilities, manufacturing facilities and an office building.

Is the property agricultural land? ☐ Yes ☒ No Are you a USDA program participant? ☐ Yes ☒ No

8. Describe the proposed activity, and the activity's purpose. Include expected water quality and fish impacts, and proposed actions to reduce the duration and severity of those impacts and provide proper protection for fish life. Complete plans and specifications should be provided for all work waterward of the Ordinary High Water Mark or Line, including types of equipment to be used, and for all work if applying for a shoreline permit. If additional space is needed, please attach separate sheet.

The purpose of the proposed activity is to reclaim approx. 600 CY of sand, gravel aggregate and limestone rock that has fallen into the water within the barge unloading berth during the barge unloading process. This material is to be removed by clamshell to the authorized existing depth of the barge slip and re-introduced into the raw material stream of the plant's manufacturing process. Removal will take approx. one day. Subsequent removal is anticipated at intervals of roughly two years for a period of ten years after the initial action.

A floating crane with clamshell bucket will be used to remove material. The deck barge will have fences to contain material. These may be either barge structure or concrete ecology blocks with hay bales and filter fabric to serve as filters for any soil water discharged back into the waterway. Emergency spill booms will be available on the floating equipment. The clamshell control lines are typically painted to allow the operator to remove material without excavating the substrate below the bottom of the accumulated spillage. The operator will work from those areas indicated on bathymetric drawings and field soundings made by the crew. The material will be piled on the deck of the flat deck barge and allowed to de-water. The barge will be either unloaded at the site or towed to another site on the Duwamish Waterway, where it will off loaded by loader onto trucks. The trucks will deliver the material to the cement plant where it will be re-introduced into the raw material stream.

Water quality impacts should be minimum due to procedures described above, and transient, limited to time of construction. The project will be removing clean, uncontaminated material and will comply with conditions of the WDOE Water Quality Certification Variance.

Impacts to fish should be minimal as the work will be done when fish are not present as indicated by conditions imposed in the HPA issued by the WDFW.

Preparation of drawings: See Appendix A - sample drawings and checklist for completing the drawings. One set of original or good quality reproducible drawings must be attached. NOTE: Applicants are encouraged to submit photographs of the project site, but these do not substitute for drawings. THE CORPS OF ENGINEERS REQUIRES DRAWINGS ON 8-1/2 x 11-INCH SHEETS. Larger drawings may be required by other agencies.

9. Proposed Starting Date: as soon as permits are in hand Estimated Duration of Activity: one day

Will the project be constructed in stages? ☒ Yes ☐ No Approx. every 2 years for 10 years.

10. Will any structures be placed:

a. waterward of the Ordinary High Water Mark or Line for fresh or tidal waters? ☐ Yes ☒ No

b. waterward of Mean High Water Line in tidal waters? ☐ Yes ☒ No

11. Will fill material (rock, fill, bulkhead, pilings or other material) be placed waterward of Ordinary High Water Mark or Line for fresh or tidal waters? ☐ Yes ☒ No

a. If "yes," in fresh water indicate volume in cubic yards: _____

b. If "yes," in tidal waters, indicate volume in cubic yards waterward of the line of mean higher high water: _____

12. Will material be placed in wetlands? ☐ Yes ☒ No If yes, impacted area: _____ (acres)

If yes:

a. Has a delineation been completed? ☐ Yes ☐ No (If yes, please submit with application.)

b. Type and composition of fill material (e.g., sand, etc.): _____

c. Material source: _____

d. List all soil series (type of soil) located at the project site, and indicate if they are on the county's list of hydric soils: Soils information can be obtained from the Natural Resources Conservation Service (NRCS), formerly Soil Conservation Service (SCS). _____

13. Will proposed activity cause flooding or draining of wetlands? ☐ Yes ☒ No If yes, impacted area: _____ (acres)

14. Will excavation or dredging be required in water or wetlands? ☒ Yes ☐ No

If yes, volume: 600 (cubic yards)

a. Composition of material removed: Sand, gravel aggregate and limestone

b. Disposal site for excavated material: Material to be re-introduced into the manufacturing stream

c. Method of removal: Barge mounted clamshell

15. List other applications, approvals, or certifications from other Federal, state or local agencies for any structures, construction, discharges, or other activities described in the application (i.e., preliminary plat approval, health district approval, building permit, SEPA review, FERC license, Forest Practices Application, etc.). Also indicate whether work has been completed and indicate all existing work on drawings.

Type of Approval	Issuing Agency	Identification No.	Date of Application	Date Approved	Completed? Yes or No
Shoreline Exemption	City of Seattle	_____	_____	_____	_____
HPA	WDFW	_____	_____	_____	_____
Section 10	USACE	_____	_____	_____	_____
Water Quality Variance	WDOE	_____	_____	_____	_____

SEPA Lead Agency: City of Seattle SEPA Decision Date: _____

16. Has any agency denied approval for the activity described herein or for any activity directly related to the activity described herein? ☐ Yes ☒ No If yes, explain:

SECTION B - Use for Shoreline & Corps of Engineers permits only.

17. Total cost of Project. This means the fair market value of the project, including materials, labor, machine rentals, etc.

Approx. \$20,000

18. Local Government with Jurisdiction: City of Seattle

Shoreline Environment Designation: UI

Zoning Designation: Manufacturing

19. For Corps permits, provide names, addresses, and telephone numbers of adjoining property owners, lessors, etc.

Port of Seattle Attn: Sam Auerbach, Box Dept PO Box 1262 Seattle, WA 98104 (206) 721-3331

PLEASE NOTE: Shoreline management compliance may require additional notice — consult your local government.

SECTION C - Complete for any permit covered by this application.

20. Application is hereby made for a permit or permits to authorize the activities described herein. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief, such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I hereby grant to the agencies to which this application is made, the right to enter the above described location to inspect the proposed or completed work.

[Signature]
Signature of Applicant or Authorized Agent (REQUIRED)

9/28/01
Date

X [Signature] PLANT MANAGER
Signature of Landowner (REQUIRED if other than applicant)

8/28/01
Date

This application must be signed by the applicant. If an authorized agent is to be designated, the applicant must also sign at item 20.

18 U.S.C. (1961) provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious, or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than 5 years or both.

DO NOT SEND FEDERAL PROCESSING FEE WITH APPLICATION

TO BE COMPLETED BY LOCAL OFFICIAL

- A. Nature of the existing shoreline. (Describe type of shoreline, such as marine, stream, lake, lagoon, marsh, bog, swamp, flood plain, floodway, delta; type of beach, such as accretion, erosion, high bank, low bank, or dike; material such as sand, gravel, mud, clay, rock, riprap; and extent and type of bulkheading, if any:)
- _____
- _____
- _____
- B. In the event that any of the proposed buildings or structures will exceed a height of thirty-five feet above the average grade level, indicate the approximate location of and number of residential units, existing and potential, that will have an obstructed view: _____
- _____
- _____
- C. If the application involves a conditional use or variance, set forth in full that portion of the master program which provides that the proposed use may be a conditional use, or, in the case of a variance, from which the variance is being sought: _____
- _____
- _____

*These Agencies are Equal Opportunity and Affirmative Action employers.
For special accommodation needs, please contact the appropriate agency from Appendix A.*